

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FERNANDO GASTELUM,
Plaintiff,
v.
SPARC GROUP LLC dba
AROPOSTALE,
Defendants.

Case No.: 5:23-cv-00303-MEMF-AGR_x

**ORDER TO SHOW CAUSE WHY THE
COURT SHOULD NOT DECLINE TO
EXERCISE SUPPLEMENTAL
JURISDICTION OVER PLAINTIFF'S
STATE LAW CLAIMS**

On February 21, 2023, Plaintiff Fernando Gastelum filed a Complaint against Defendant Sparc Group LLC, doing business as Aropostale, asserting: (1) a claim for injunctive relief arising out of an alleged violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12010–12213; and (2) a claim for damages pursuant to California’s Unruh Civil Rights Act (“Unruh Act”), CAL. CIV. CODE §§ 51–52, *et seq.* ECF No. 1. The Complaint alleges that this Court has jurisdiction over the ADA claim pursuant to 28 U.S.C. §§ 1331 and 1343. *Id.* at ¶6.

Principles of pendent jurisdiction have been codified in the supplemental jurisdiction statute, 28 U.S.C. § 1367. The supplemental jurisdiction statute “reflects the understanding that, when deciding whether to exercise supplemental jurisdiction, ‘a federal court should consider and weigh in

1 each case, and *at every stage of the litigation*, the values of judicial economy, convenience, fairness,
 2 and comity.” *City of Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 156, 173 (1997) (emphasis added)
 3 (quoting *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)).

4 California law sets forth a heightened pleading standard for a limited group of lawsuits
 5 brought under the Unruh Act. *See* CAL. CIV. PROC. CODE §§ 425.55(a)(2) & (3). The stricter
 6 pleading standard requires certain plaintiffs bringing construction-access claims like the one in the
 7 instant case to file a verified complaint alleging specific facts concerning the plaintiff’s claim,
 8 including the specific barriers encountered or how the plaintiff was deterred and each date on which
 9 the plaintiff encountered each barrier or was deterred. *See* CAL. CIV. PROC. CODE § 425.50(a). A
 10 “high-frequency litigant fee” is also imposed on certain plaintiffs and law firms bringing these
 11 claims. *See* CAL. GOV’T CODE § 70616.5. A “high-frequency litigant” is “a plaintiff who has filed 10
 12 or more complaints alleging a construction-related accessibility violation within the 12-month period
 13 immediately preceding the filing of the current complaint alleging a construction-related
 14 accessibility violation” *and* “an attorney who has represented as attorney of record 10 or more high-
 15 frequency litigant plaintiffs in actions that were resolved within the 12-month period immediately
 16 preceding the filing of the current complaint alleging a construction-related accessibility violation.”
 17 CAL. CIV. PROC. CODE §§ 425.55(b)(1) & (2). High frequency litigants are also required to state: (1)
 18 whether the complaint is filed by, or on behalf of, a high-frequency litigant; (2) in the case of a high-
 19 frequency litigant who is a plaintiff, the number of complaints alleging construction-related
 20 accessibility claim filed by the high-frequency litigant during the 12 months prior to filing the instant
 21 complaint; (3) the reason the individual was in the geographic area of the defendant’s business; and
 22 (4) the reason why the individual desired to access the defendant’s business.” *See id.* §
 23 425.50(a)(4)(A).

24 In light of the foregoing, the Court orders Plaintiff to show cause in writing why the Court
 25 should exercise supplemental jurisdiction over the Unruh Act claim. *See* 28 U.S.C. § 1367(c). In
 26 responding to this Order to Show Cause:

- 27 1. Plaintiff shall identify the amount of statutory damages Plaintiff seeks to recover.

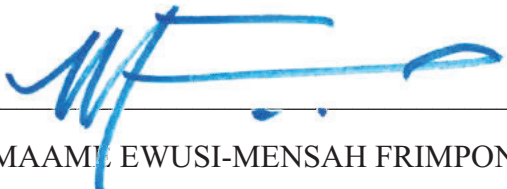
1 2. Plaintiff and Plaintiff's counsel shall also support their responses to the Order to Show Cause
2 with declarations, signed under penalty of perjury, providing all facts necessary for the Court
3 to determine if they satisfy the definition of a "high-frequency litigant" as provided by
4 California Code of Civil Procedure §§ 425.55(b)(1) & (2). This includes, but is not limited
5 to:

- 6 a. the number of construction-related accessibility claims filed by Plaintiff in the twelve
7 months preceding the filing of the present claim; and
8 b. the number of construction-related accessibility claims in which Plaintiff's counsel
9 has represented high-frequency litigant plaintiffs in the twelve months preceding the
10 filing of the present claim.

11 Plaintiff shall file a Response to this Order to Show Cause within fourteen (14) days of the
12 date of this Order. The failure to timely or adequately respond to this Order to Show Cause may,
13 without further warning, result in the Court declining to exercise supplemental jurisdiction over the
14 Unruh Act claim pursuant to 28 U.S.C. § 1367(c).

15
16 **IT IS SO ORDERED.**

17
18
19 Dated: July 31, 2023

20 
MAAME EWUSI-MENSAH FRIMPONG

21 United States District Judge
22
23
24
25
26
27
28